

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JANA R NORMAN
4139 CAMBRIDGE ST
DES MOINES IA 50313-3607

PEPSICO INC – FRITO-LAY INC
c/o TALK UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-07039-CT
OC: 05/28/06 R: 02
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

PepsiCo, Inc. filed an appeal from a representative's decision dated June 29, 2006, reference 03, which held that no disqualification would be imposed regarding Jana Norman's separation from employment. After due notice was issued, a hearing was held by telephone on July 24, 2006. Ms. Norman participated personally. The employer participated by Tom Healy, Zone Operations Manager; Joe Omundson, Customer Service Representative; and Leah Thomas, Product Supply Lead. The employer was represented by Jackie Wiegand of TALX UC eXpress.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Norman was employed by PepsiCo, Inc. from September 21, 2005 until February 26, 2006. She worked full time filling orders in the warehouse. On February 26, she advised Joe Omundson that she was quitting because it was not a fun place to work. When asked to elaborate, Ms. Norman reiterated that it just was not a fun place to work.

Approximately one week before her separation, Ms. Norman complained to Mr. Omundson about two of her coworkers. Her complaint was that Joe and Dan were telling her to pick up her work pace, get back to work, and to stop talking. Mr. Omundson indicated he would speak to the individuals. Joe had referred to her as a "fucking bitch," but Ms. Norman did not advise Mr. Omundson of any name-calling by coworkers. After her complaint, Ms. Norman did not have any further problems with Joe except for an occasion where he hit her with a cart. She acknowledged that people do get hit by the carts accidentally at the work place.

Ms. Norman did not utilize the chain of command to address any work-related issues. She could have contacted the zone operations manager, Tom Healy, if she felt Mr. Omundson had been unresponsive to her complaint. She did contact Mr. Healy on March 6 concerning her final pay. When asked why she had left, Ms. Norman stated that it was not a fun place to work. Continued work would have been available if she had not quit on February 26, 2006.

Ms. Norman received a total of \$1,826.00 in job insurance benefits after filing her claim effective May 28, 2006.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Norman was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Even viewing the evidence in a light most favorable to Ms. Norman, good cause attributable to the employer has not been established. She testified that she spoke to Mr. Omundson one week before her separation and made him aware that Joe had called her a "fucking bitch." She acknowledged that there was no further name-calling after she complained to Mr. Omundson. Although Joe struck her with a cart after the complaint, she failed to establish that his actions were deliberate. She testified that the work area is relatively small and people do get struck by carts inadvertently. Given this factor, the administrative law judge cannot conclude that Joe struck her intentionally. Ms. Norman acknowledged that there were no other incidents involving Joe or other coworkers after she complained to Mr. Omundson.

Based on the foregoing, the administrative law judge concludes that the matter that caused Ms. Norman to complain to Mr. Omundson was resolved prior to her quitting. Inasmuch as the employer had resolved the problem before the quit, the actions of her coworkers did not present good cause for quitting. Ms. Norman did not cite any other reasons for the quit. For the reasons stated herein, it is concluded that good cause attributable to the employer has not been established. Accordingly, benefits are denied.

Ms. Norman has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code

section 96.3(7). Ms. Norman has had other employment since leaving PepsiCo, Inc. She should provide proof of her subsequent earnings to Workforce Development so that a determination can be made as to whether she requalified for benefits.

DECISION:

The representative's decision dated June 29, 2006, reference 03, is hereby reversed. Ms. Norman voluntarily quit her employment with PepsiCo, Inc. for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kjw